

TO: Assessing Officers  
Equalization Directors

No. 9 - April 8, 1989  
Time of Preparation of Tax Roll  
for Ad Valorem Taxes

FROM: State Tax Commission

STATE OF MICHIGAN

FRANK J. KELLEY, ATTORNEY GENERAL

TAXATION: Time of preparation of tax roll  
for ad valorem property taxes

TOWNSHIPS: Supervisor -- time to prepare tax  
roll

The township supervisor must prepare the tax roll prior to the  
time the ad valorem property taxes are collected.

Opinion No. 6566

Honorable Harry Gast  
State Senator  
The Capitol  
Lansing, Michigan 48909

JAN 31 1989

You have requested my opinion on whether it is per-  
missible for a township supervisor to prepare the "official"  
tax roll at the end of the tax collection cycle rather than at  
the beginning.

The preparation of the tax roll and the collection  
of property taxes is provided for in the General Property Tax  
Act, 1893 PA 206; MCL 211.1 et seq; MSA 7.1 et seq.

The General Property Tax Act, § 42, provides:

"The (township) supervisor shall prepare  
a tax roll, with the taxes levied as pro-  
vided in this act, and annex to the roll  
a warrant signed by him or her, commanding  
the township or city treasurer to collect  
the several sums mentioned in the last  
column of the roll but the warrant shall  
not refer to the total or aggregate of the

several sums mentioned in the last column, and to retain the amount receivable by law into the township treasury for the purpose therein specified, and to pay over as provided in section 43 to the county treasurer the amounts which are collected for state and county purposes, and to the treasurer of each school district the amounts which are collected for that school district as provided in section 43, and notify the secretary or director of each school district of the amount paid to the school district treasurer, and the remainder of the amounts specified in the roll for the purposes specified in the roll, and account in full for all money received on or before March 1 next following. The warrant shall authorize and command the treasurer, in case any person named in the tax roll neglects or refuses to pay the tax, to levy the tax by distress and sale of the goods and chattels of the person. The supervisor may make a new roll and warrant in case of the loss of the roll originally given to the township treasurer. The copy of the roll with the warrant annexed shall be known as 'the tax roll.'" MCL 211.42; MSA 7.83. (Emphasis added.)

In section 44(1) of the General Property Tax Act, the Legislature has provided:

"Upon receipt of the tax roll, the township treasurer or other collector shall proceed to collect the taxes. ..."  
MCL 211.44(1); MSA 7.87(1).

Consideration must also be given to section 46(2) of the General Property Tax Act, which provides in pertinent part:

"The treasurer shall give a receipt for every tax paid, and shall cause to be entered in an indelible manner the fact of payment, and the date of payment upon his or her tax roll." MCL 211.46(2); MSA 7.90(2).

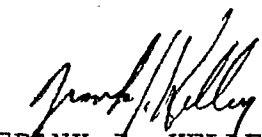
From the above, it is abundantly clear that the preparation of a "tax roll" is a statutorily mandated prerequisite to the collection of property taxes. The tax roll serves as the legal authority of the local collector to begin collection of the taxes, MCL 211.44(1); MSA 7.87(1), and also serves as proof that the taxes have been paid for particular properties. MCL 211.46(2); MSA 7.90(2).

If an "official" tax roll is not prepared before collection of the taxes begins, the subsequent collection would not be based upon legal authority and would be illegal. The warrant affixed to the roll by the township supervisor is the legal authority by which a local treasurer may proceed to collect the taxes. As stated in Putman v Twp of Fife Lake, 45 Mich 125, 132; 7 NW 699 (1881):

"If without a warrant he [the township treasurer] is without the requisite legal commission to effect collection. He is in no better plight than a constable without process. His power as a collecting officer is at end. He can neither collect by making a distress nor by bringing an action."

Without an official "tax roll," (the roll with the supervisor's warrant attached), legal collection of the taxes is impossible.

It is my opinion, therefore, that the tax roll must be prepared by the township supervisor before the process of collecting property taxes begins.

  
FRANK J. KELLEY  
Attorney General